

SCOPELITIS, GARVIN, LIGHT, HANSON & FEARY
James H. Hanson, Pro Hac Vice, Ind. Bar No. 08100-49
jhanson@scopelitis.com
Robert L. Browning, Pro Hac Vice, Ind. Bar No. 15128-49
rbrowning@scopelitis.com
R. Jay Taylor Jr., Pro Hac Vice, Ind. Bar No. 19693-53
jtaylor@scopelitis.com
10 West Market Street, Suite 1500
Indianapolis, IN 46204
(317) 637-1777
Fax: (317) 687-2414

Christopher C. McNatt, Jr.
Cal. Bar No. 174559
cmcnatt@scopelitis.com
2 North Lake Avenue, Suite 460
Pasadena, CA 91101
(626) 795-4700
Fax: (626) 795-4790
Attorneys for Defendant

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOSUE SOTO, GHAZI RASHID, MOHAMED)
ABDELFATTAH, on Behalf of All Aggrieved)
Employees, All Others Similarly Situated, and)
the General Public,)

CASE NO. 08-CV-0033-L-AJB

vs.
DIAKON LOGISTICS (DELAWARE) INC., a
foreign corporation; and
DOES 1 through 50, inclusive,
Defendants.

CLASS ACTION

DIAKON LOGISTICS (DELAWARE) INC.,
Counterclaimant,

**WAIVER OF SERVICE
OF SUMMONS**

**DIAKON LOGISTICS (DELAWARE) INC.,
Third-Party Plaintiff.**

SAYBE'S, LLC, ABDUL TRUCKING, INC.,
and RASHID TRUCKING, INC.,
Third-Party Defendants.

TO James H. Hanson
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SCOPELITIS, GARVIN, LIGHT,
HANSON & FEARY
10 West Market Street, Suite 1500
Indianapolis, Indiana 46204

Christopher C. McNatt
SCOPELITIS, GARVIN, LIGHT,
HANSON & FEARY
2 North Lake Street, Suite 460
Pasadena, California 91101

I, Issa J. Michael, acknowledge receipt of your request that Third-Party Defendants, Saybe's, LLC, Abdul Trucking, Inc., and Rashid Trucking, Inc. waive service of summons in the action of *Josue Soto et al. v. Diakon Logistics (Delaware) Inc v. Saybe's, LLC, Abdul Trucking, Inc., and Rashid Trucking, Inc.*, which is Case No. 08-cv-0033-L-AJB in the U.S. District Court for the Southern District of California. I have also received a copy of the First Amended Third-Party Complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the First Amended Third-Party Complaint in this lawsuit by not requiring that Saybe's, LLC, Abdul Trucking, Inc., and Rashid Trucking, Inc. be served with judicial process in the manner provided in Rule 4.

Saybe's, LLC, Abdul Trucking, Inc., and Rashid Trucking, Inc. will retain all defenses or objections to the lawsuit or the jurisdiction or venue of the court except for objections based on a defect in the summons or the service of summons.

Dated: August 4, 2008



Issa J. Michael
Attorney for Third-Party Defendants
Saybe's, LLC, Abdul Trucking, Inc., and
Rashid Trucking, Inc.

Duty to Avoid Unnecessary Costs of Service of Summons

1 Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in
2 saving unnecessary costs of service of the summons and complaint. A defendant located in the
3 United States who, after being notified of an action and asked by a plaintiff located in the United
4 States to waive service of summons, fails to do so will be required to bear the cost of such
service unless good cause be shown for its failure to sign and return the waiver.

5 It is not good cause for failure to waive service that a party believes that the complaint is
unfounded, or that the action has been brought in an improper place or in a court that lacks
jurisdiction over the subject matter of the action or over its person or property. A party who
waives service to the summons retains all defenses and objections (expect any relating to the
summons or to the service of the summons), and may later object to the jurisdiction of the court
or to the place where the action has been brought.

8 A defendant who waives service must within the time specified on the waiver form serve
on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also
file a signed copy of that response with the Court. If the answer or motion is not served within
this time, a default judgment may be taken against that defendant. By waiving service, a
defendant is allowed more time to answer than if the summons had been actually served when
the request for waiver of service was received.

12 Issa J. Michael, Esq.
13 The Michael Law Firm
14 1648 Union Street, Suite 201
15 San Francisco, California 94123
16 Phone: (619) 595-1400; (415) 447-2833
17 Fax: (619) 447-2834
jmichaelesq@yahoo.com

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